

<b>SPEED LETTER</b>		REPLY REQUESTED		DATE 20 June 1973
		YES	NO	LETTER NO. N-234/73
TO : <del>DDO</del> ; OLC		FROM: ADDO		
ATTN:				
<p>SUBJECT: H. R. 8152 - Amendment to Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (attached OLC 73-0731)</p> <p>On H. R. 8152 I recommend we say to Senate Judiciary Committee we have some technical and training assistance to offer in the fight against crime but we would <u>not</u> fight to retain right to give such assistance. It is up to the Congress.</p> <p style="text-align: center;">STATINTL</p> <div style="text-align: center; background-color: black; width: 200px; height: 40px; margin: 10px auto;"></div>				
			SIGNATURE	
REPLY			DATE	
<p style="font-size: 2em; text-align: center;"><del>We could</del></p> <p style="font-size: 3em; text-align: center;">No</p> <p style="font-size: 3em; text-align: center;">Passed</p> <p style="font-size: 2em; text-align: right;">WFE</p>				
			SIGNATURE	

SENDER WILL CHECK CLASSIFICATION TOP AND BOTTOM			
UNCLASSIFIED		CONFIDENTIAL	
CENTRAL INTELLIGENCE AGENCY OFFICIAL ROUTING SLIP			
TO	NAME AND ADDRESS	DATE	INITIALS
1	ADDO	6/19	Y
2			
3	DDO		✓
4			
5	OLC		
6			
ACTION		DIRECT REPLY	PREPARE REPLY
APPROVAL		DISPATCH	RECOMMENDATION
COMMENT		FILE	RETURN
CONCURRENCE		INFORMATION	SIGNATURE
Remarks:			
<p><del>For DDO?</del></p> <p>1-3: On 11/28/52 I recommended we say to Senate Judiciary Committee we have some technical and training assistance to offer in the fight against crime but we would not fight to retain right to give such assistance. It is up to the Congress.</p>			
FOLD HERE TO RETURN TO SENDER			
FROM: NAME, ADDRESS AND PHONE NO.			DATE

OLC 73-0731

19 June 1973

MEMORANDUM FOR: Deputy Director for Operations  
Deputy Director for Management and Services  
General Counsel

SUBJECT: H.R. 8152 - Amendment to Title I of the Omnibus  
Crime Control and Safe Streets Act of 1968

1. Attached for your information is an excerpt from yesterday's Congressional Record covering House approval of an amendment which is directed at CIA. The basic legislation (H.R. 8152) amends Title I of the Omnibus Crime Control and Safe Streets Act of 1968. The floor amendment was not considered in committee and was offered on 18 June by Miss Holtzman. Its effect is to take away the authority of the Law Enforcement Assistance Administration to use the available services, equipment, personnel, and facilities of CIA in carrying out the Administration's functions under the Act.

2. The legal effect of the Holtzman amendment falls somewhat short of the colloquy which appears to have been prepared with a broader bill in mind (H.R. 8432). The Koch bill would cut off any direct or indirect CIA assistance to State or local government law enforcement activities and thereby prohibit communication of foreign intelligence information through the FBI to local government units on narcotics, terrorist bomb threats, etc. The Koch bill has been referred to House Armed Services Committee since it is in the form of an amendment to the National Security Act of 1947. We are currently drafting an Agency position on the bill for submission to Chairman Hebert.

3. H.R. 8152 passed the House yesterday and should be referred to the Senate Judiciary Committee shortly. Suggestions for an Agency position to be taken with the Senate Judiciary Committee is herewith requested on a priority basis.

STATINTL

LLM

H 4894

## CONGRESSIONAL RECORD—HOUSE

June 18, 1973

under the bill's language, any judge worth his salt would throw the case out so fast it would make your head swim.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. KEATING).

The question was taken; and the Chairman announced that the ayes appeared to have it.

## RECORDED VOTE

Mr. RODINO. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were ayes 227, noes 162, present 1, not voting 48, as follows:

[Roll No. 15]

## AYES—227

Abdnor, N.C.  
Andrews, N.C.  
Andrews, N. Dak.  
Archer  
Arends  
Armstrong  
Bafalis  
Baker  
Beard  
Bell  
Bevill  
Bowen  
Bray  
Breaux  
Brinkley  
Broomfield  
Brotzman  
Brown, Mich.  
Brown, Ohio  
Broyhill, N.  
Broyhill, V.  
Buchanan  
Burgener  
Burke, Fla.  
Burleson, Tex.  
Butler  
Byron  
Camp  
Casey, Tex.  
Cederberg  
Chamberlain  
Chappell  
Clancy  
Clark  
Clausen,  
Don H.  
Clawson, Del.  
Cleveland  
Cohen  
Collier  
Collins, Tex.  
Conable  
Conlan  
Cotter  
Crane  
Daniel, Dan.  
Daniel, Robt.  
W., Jr.  
Davis, Ga.  
Davis, Wis.  
Delaney  
Dellenback  
Dennis  
Derwinski  
Devine  
Dickinson  
Dorn  
Downing  
Dulski  
Duncan  
du Pont  
Erlenborn  
Eshleman  
Findley  
Fish  
Ford, Gerald  
Forsythe  
Fountain  
Frenzel  
Frey  
Froehlich  
Fulton  
Fuqua  
Gettys  
Giulino  
Gilman  
Ginn

Goldwater  
Goodling  
Green, Ore.  
Gross  
Grover  
Gubser  
Gunter  
Guyer  
Haley  
Hammer-  
schmidt  
Holl  
Hanshan  
Hansen, Idaho  
Harsha  
Harvey  
Hastings  
Hebert  
Heinz  
Henderson  
Hillis  
Hinsaw  
Hogan  
Holt  
Horton  
Hosmer  
Huber  
Hudnut  
Hunt  
Hutchinson  
Ichord  
Jarman  
Johnson, Colo.  
Johnson, Pa.  
Jones, N.C.  
Keating  
Kemp  
Ketchum  
Kuykendall  
Landrum  
Latta  
Lent  
Lott  
Lujan  
McClory  
McCollister  
McDade  
McEwen  
McKinney  
Madigan  
Mahon  
Mallory  
Maraziti  
Martin, Nebr.  
Martin, N.C.  
Mathis, Ga.  
Mayne  
Mazzoli  
Michel  
Miller  
Mitchell, N.Y.  
Mizell  
Montgomery  
Moorhead,  
Calif.  
Myers  
Nelsen  
Nichols  
O'Brien  
Parris  
Passman  
Pettis  
Peyser  
Pickle  
Pike  
Powell, Ohio  
Price, Tex.

Britchard  
Bue  
Billsback  
Burdall  
Boggs  
Boland  
Boiling  
Brademas  
Breckinridge  
Brooks  
Brown, Calif.  
Burke, Mass.  
Burison, Mo.  
Burton  
Carey, N.Y.  
Carney, Ohio  
Collins, Ill.  
Conte  
Conyers  
Corman  
Coughlin  
Cronin  
Daniels,  
Dominick V.  
de la Garza  
Dellums  
Denholm  
Dent  
Diggs  
Dingell  
Donohue  
Dunham  
E. Chardt  
Edwards, Calif.  
Ellis, Ark.  
Esch  
Evan, Colo.  
Evins, Tenn.  
Fasell  
Flood  
Flowers  
Foley  
Ford,  
William D.  
Fraser  
Gaydos

Abzug  
Addabbo  
Alexander  
Anderson,  
Calif.  
Anderson, Ill.  
Annunzio  
Ashley  
Aspin  
Barrett  
Bennett  
Bergland  
Biaggi  
Blester  
Bingham  
Boggs  
Boland  
Boiling  
Brademas  
Breckinridge  
Brooks  
Brown, Calif.  
Burke, Mass.  
Burison, Mo.  
Burton  
Carey, N.Y.  
Carney, Ohio  
Collins, Ill.  
Conte  
Conyers  
Corman  
Coughlin  
Cronin  
Daniels,  
Dominick V.  
de la Garza  
Dellums  
Denholm  
Dent  
Diggs  
Dingell  
Donohue  
Dunham  
E. Chardt  
Edwards, Calif.  
Ellis, Ark.  
Esch  
Evan, Colo.  
Evins, Tenn.  
Fasell  
Flood  
Flowers  
Foley  
Ford,  
William D.  
Fraser  
Gaydos

## NOES—162

Gibbons  
Gonzalez  
Grasso  
Gray  
Green, Pa.  
Griffiths  
Gude  
Hamilton  
Hanley  
Hanna  
Hansen, Wash.  
Harrington  
Hays  
Hechler, W. Va.  
Heckler, Mass.  
Helstoski  
Hicks  
Hollfield  
Holtzman  
Howard  
Hungate  
Johnson, Calif.  
Jones, Ala.  
Jones, Okla.  
Jones, Tenn.  
Jordan  
Karth  
Kastenmeier  
Kazen  
Kluczynski  
Koch  
Kyros  
Leggett  
Lehman  
Long, La.  
McCloskey  
McCormack  
McFall  
McKay  
McSpadden  
Maddison  
Madden  
Mann  
Matsunaga  
Meeds  
Melcher  
Metcalfe  
Mezvisinsky  
Minish  
Mink  
Mitchell, Md.  
Monkley  
Mollohan  
Moorhead, Pa.  
Morgan  
Murphy, Ill.  
Murphy, N.Y.

## PRESENT—1

1 age

## NOT VOTING—48

Adams  
Ashbrook  
Badillo  
Blackburn  
Blatnik  
Brasco  
Burke, Calif.  
Carter  
Chisholm  
Clay  
Cochran  
Culver  
Danielson  
Davis, S.C.  
Edwards, Ala.

Fish  
Flynt  
Froling, N.Y.  
Hawkins  
King  
Landgrebe  
Littton  
Long, Md.  
Maillard  
Mathias, Calif.  
Mills, Ark.  
Minshall, Ohio  
Mosher  
Moss  
Nix

O'Neill  
Owens  
Quillen  
Rarick  
Riegle  
Rooney, N.Y.  
Ruppe  
Ryan  
Schroeder  
Thompson, N.J.  
Deerlin  
Wilkins  
Wilson, Bob

So the amendment was agreed to.  
The result of the vote was announced as above recorded.

## AMENDMENT OFFERED BY MISS HOLTZMAN

Miss HOLTZMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Miss HOLTZMAN: On page 36, line 7, insert immediately after "Federal Government" the following: "not including the Central Intelligence Agency."

(Miss HOLTZMAN asked and was given permission to revise and extend her remarks.)

Ms. HOLTZMAN. Mr. Chairman, my amendment is very simple. It would prohibit the Central Intelligence Agency from engaging in local law enforcement

activities under the auspices of the Omnibus Crime Control and Safe Streets Act.

As we all know, the CIA is not authorized to engage in domestic law enforcement activities under the statute creating it—the National Security Act of 1947.

Nonetheless, the CIA has been training and working with local law enforcement agencies throughout the country—citing as its authority to do so section 508 of title I of the Omnibus Crime Control and Safe Streets Act which created LEAA. This provision is almost identical to section 508 of the bill we are considering today.

The domestic activity of the CIA, of which I learned only last week, was not brought to the attention of the Committee on the Judiciary during its deliberations on H.R. 8152. It is clear to me, however, that the House Judiciary Committee never contemplated that section 508 would permit the CIA to engage in such activities.

The activities of the Central Intelligence Agency under LEAA have been documented by the General Accounting Office, by letters from James R. Schlesinger, Jr., former Director of the CIA, and by other Members of this House. I should also point out that it was through the efforts of my distinguished colleague from New York (Mr. Koch) that the involvement of the CIA in these activities came to the attention of the House in the first place.

Under the color of the Safe Streets Act the CIA has given the following kind of aid to about a dozen city and county police agencies throughout the country: instruction in record handling, clandestine photography, surveillance of individuals, detection and identification of metal and explosive devices and analysis of foreign intelligence data. I might add it has carried out these activities without having been requested to do so by the Administrator of LEAA as section 508 of both the existing legislation and the bill we are considering today requires. In New York City alone 14 policemen were given briefings on the analysis and processing of foreign intelligence information.

An even more troublesome problem is that although the CIA has been apparently restricting itself to training activities and technical assistance under title I of the 1968 act, the language of that statute as well as the provision before us is sweeping enough to authorize the CIA to use its own personnel in the actual performance of local law enforcement activities.

It is perfectly clear that whatever activities the CIA has performed or may perform in connection with local law enforcement efforts, such activities could more appropriately be carried out by other Federal agencies such as the FBI. For this reason, the Justice Department has advised me that excluding the CIA from participation in local law enforcement activities would not jeopardize the functioning of local law enforcement agencies or the functioning of LEAA.

There is no need for the CIA involvement in local law enforcement activities and to permit such involvement

June 18, 1973

## CONGRESSIONAL RECORD — HOUSE

H 4895

creates dangers of enormous proportions to this country. Recent events, such as the burglary of the office of Daniel Ellsberg's psychiatrist, demonstrate that CIA involvement in domestic law enforcement activities can abridge constitutional rights and jeopardize the integrity of the CIA itself. In fact, it is significant that the CIA involvement in the Ellsberg matter came in the form of "technical assistance"—the same kind of assistance supposedly provided by the CIA to local law enforcement agencies.

My amendment would prevent such dangers from happening by limiting the activities of the CIA to areas of its legitimate concern and preventing it from diverting its resources and attention to local law enforcement.

I therefore respectfully urge the adoption of this amendment which is wholly in keeping with the spirit and purpose of the Omnibus Crime Control and Safe Streets Act, and prevents CIA involvement in local law enforcement.

Mr. RODINO. Mr. Chairman, will the gentlewoman yield?

Miss HOLTZMAN. I am happy to yield to the chairman, the distinguished gentleman from New Jersey (Mr. Rodino).

Mr. RODINO. Mr. Chairman, I would like to state that the amendment offered by the gentlewoman from New York (Miss HOLTZMAN) is one that I think is in keeping with the true purpose of the act, and that it remedies a deficiency that has been overlooked. I certainly will accept the amendment offered by the gentlewoman from New York.

Miss HOLTZMAN. I thank the gentleman.

Mr. HUTCHINSON. Mr. Chairman, will the gentlewoman yield?

Miss HOLTZMAN. I will be happy to yield to the distinguished ranking minority member on the committee.

Mr. HUTCHINSON. Mr. Chairman, I thank the gentlewoman for yielding to me.

Mr. Chairman, certainly the CIA has no function in our domestic law enforcement. If the CIA has been engaging in such activities, citing any part of the LEAA law as their authority, that matter should be clarified. I can see absolutely no harm in the amendment offered by the gentlewoman from New York. I think that it clarifies the law. Therefore, Mr. Chairman, I would indicate my support for the amendment offered by the gentlewoman from New York (Miss HOLTZMAN).

Miss HOLTZMAN. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Miss HOLTZMAN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FLOWERS

Mr. FLOWERS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Flowers: On page 42, amend section 518 by adding the following new subsection after line 22:

"(b) Notwithstanding any other provision of law nothing shall be construed to authorize the Administration (1) to require, or condition the

availability or amount of a grant upon, the adoption by an applicant or grantee under this title of a percentage ratio, quota system, or other program to achieve racial balance or to eliminate racial imbalance in any law enforcement agency, or (2) to deny or discontinue a grant because of the refusal of an applicant or grantee under this title to adopt such a ratio, system, or other program."

And on line 23 redesignate subsection (b) as subsection (c).

Mr. FLOWERS. Mr. Chairman, this is new language insofar as this bill is concerned. However, it is not new language insofar as the present Law Enforcement Assistance Administration law is concerned. It is a part of the current law. I would like to make that clear to my colleagues.

This is not new to the LEAA law. It is in the current law that was enacted by the Congress in 1968.

Now, how did we get into position we are in now, that this language is not a part of the committee bill?

First of all, it was left out of the administration bill which was sent up to us. It was left out partly, I think, because the administration bill was a special revenue-sharing bill. It did not contain the categorical and bloc grant approach that we have now in the current law and that we have in the committee bill that is before this Chamber.

Mr. Chairman, what the committee did with the administration bill primarily was to change this section by adding what had been proposed by various civil rights groups, sections (b) (1), (b) (2), and (b) (3) to the bill. They are found following the part that I propose to amend and I have no objection to these provisions. All testimony, and the consensus of the committee, tells us that this vastly strengthens the civil rights provisions of the LEAA law.

I say this, however, Mr. Chairman. I fear that if at the same time we are strengthening these civil rights provisions we take out this very clear prohibition on the Law Enforcement Assistance Administration, a prohibition which merely states that:

Notwithstanding any other provision of law nothing contained in this title shall be construed to authorize the Administration (1) to require, or condition the availability or amount of a grant upon, the adoption by an applicant or grantee under this title of a percentage ratio, quota system, or other program to achieve racial balance.

If on the one and we vastly strengthen the civil rights provisions, but on the other hand we are taking out what is part of the current law, I say that there can be no other reception for this by the administration, or by any group of persons around the country, than that we intend to require quotas or percentage ratios, and we ought to condition grants upon the adoption of such a system by a prospective grantee.

I say, Mr. Chairman, by taking this out of the law—and all I propose to do is to keep what is in the current law—we would be opening the door to interference of all kinds—interference of the Law Enforcement Assistance Administration all the way down to the local police or local sheriff's de-

partment in every district around this Nation.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. FLOWERS. I yield to the gentleman from Michigan.

Mr. CONYERS. I thank the gentleman for yielding.

I do not know if my hearing is failing me. Did the gentleman say this amendment strengthens the civil rights provisions of LEAA?

Mr. FLOWERS. I did not say that.

Mr. CONYERS. I did not think the gentleman did.

Mr. FLOWERS. I said that the other amendments we have added to this section vastly strengthened the civil rights provisions, and I said I supported those amendments.

Mr. CONYERS. Then if it does not strengthen the civil rights provisions in LEAA, could I have the temerity to ask the gentleman, does it weaken the present provisions?

Mr. FLOWERS. I do not think it is incompatible with the strengthening provisions of the bill. I do not think it either weakens or strengthens. It merely states what it says it states insofar as the current law is concerned.

Mr. Chairman, I say that this is a very simple matter that ought to be included in these amendments and the further extension of this act, and I ask my colleagues in the House to support the amendment.

Miss JORDAN. Mr. Chairman, I rise in opposition to the amendment.

(Miss JORDAN asked and was given permission to revise and extend her remarks.)

Miss JORDAN. Mr. Chairman, the gentleman from Alabama is absolutely correct. His amendment neither strengthens nor weakens the civil rights enforcement provisions in this legislation. It does confuse the civil rights enforcement provisions in this legislation.

Let us understand that the antiquota provision is in current law, but removal of that provision from the law was recommended not by the NAACP, nor by the Urban League; not by any social critics, but by the administration headed by the President Mr. Nixon.

I ask the Members is this present administration a pro-racial quota administration?

I would suggest that the fact the Nixon administration itself recommends that we take this quota provision out of the law is proof that we now have a provision in the bill which will strengthen civil rights enforcement, a provision in the bill which will not say we cut off the funds if they simply discriminate, but that this Law Enforcement Assistance Administration must adhere to the provisions of title 6 of the Civil Rights Act of 1964, that before any funds are denied any agency or entity in terms of the charge they have discriminated must be entitled to a hearing.

The Governor of the State is the first one who must make the effort to resolve any conflict which will exist. Negotiations, hearings, due process, all is pro-

Because we have the provision in the